Supreme Court, U.S.
FILED
011007 AUG 13 2002
OFFICE OF THE CLERK

No._____

In The
Supreme Court of the United States

Willard D. Gross
Petitioner,

V.

Fred Irtz, Administrator
Respondent,

On Petition For a Writ of Certiorari
To The Supreme Court of Kentucky

PETITION FOR A WRIT OF CERTIORARI

Willard D. Gross pro se
6718 Russell Cave Road
Lexington, Kentucky 40511
(859) 299-6109

22pp

QUESTIONS PRESENTED

Whether the petitioner has a constitutional right to free speech and separation of church and state, pursuant to the First Amendment to the Constitution of the United States?

Whether the petitioner has a constitutional right to due process of law, pursuant to the Fifth Amendment to the Constitution of the United States?

Whether the petitioner has a constitutional right to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have assistance of counsel for his defense, pursuant to the Sixth Amendment to the Constitution to he United States?

Whether the petitioner has a constitutional right to due process of law and equal protection of the law, pursuant to the Fourteenth Amendment to the Constitution of the United States?

PARTIES TO THE PROCEEDING

In addition to the parties named in the caption, counsel for attorney Fred Irtz administrator for the Estate of Caleb P. Gross, Robert C. Monk is attorney of record Case No. 2000-SC-0983-D Kentucky Supreme Court and (2000 CA-001874-D) Kentucky Court of Appeals.

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OPINIONS BELOW

The opinion of the Kentucky Supreme Court is reproduced in the appendix at Pet. App.1. The opinion of the Kentucky Court of Appeals is reproduced in the Appendix at Pet. App. 2.

JURISDICTION

The Order denying discretionary review by the Kentucky Supreme Court was entered on June 7, 2001. This court has jurisdiction under 28 U.S.C. $ 1257.

The Supreme Court of the United States, Office of the Clerk granted petitioner extended time to file his petition for a Writ of Certiorari to include within 60 days from August 14, 2001.

CONCISE STATEMENT OF THE CASE

The case before the court begins on May 2, 1997. District Probate Court Fayette County, Kentucky, appointed administrator of petitioners Father's Estate. Petitioner claims that the appointment is unlawful and files motions to terminate the appointment and to disqualify the Judge. Both motions were sealed by the court.

Some ten months later the court disqualified itself stating a conflict of interest with the petitioner. Motion to terminate the administrator was kept sealed until April 3, 2000, this denying petitioner access to the court for 31 months. After proper appeals on June 7, 2001 Kentucky Supreme Court denied motion for discretionary review.

Petitioner raised the violation of his constitutional rights on page 10 of his motion for discretionary review to the Supreme Court of Kentucky. On page 4 and 5 of his motion for discretionary review to the court of appeals. On page 2 of his statement of appeals to the Fayette Circuit Court, Lexington, Kentucky.

Petitioner raised violations of his constitutional rights in his motion for disqualification of District Probate Court, filed June 20, 2000. (6 pages)

REASONS FOR GRANTING THE WRIT

1. Under Amendment I Freedom of religion and speech. The court violated the separation of church and state clause when it pleaded with the petitioner to drop his motion to terminate the appointment of Fred Irtz and turn the case over to him and stated "that if there is any wrong doing forget it and further on down the road GOD will take care of it." (page 9 of Motion for Discretionary Review)

The court denied petitioner free speech for 31 months when it sealed his motion to terminate the appointment of the administrator; also when the court denied him the right to address the court in a case which he was a participant.

2. Under Amendment V Due Process of Law. The court threatened petitioner at least four times with a $1,000 fine and 1 year in jail for practicing law without a license and filing frivolous motions. The court had no proof of either, then sentenced petitioner to thirty days in jail for contempt of court. This action by the court was done for intimation, all in violation of petitioner's Fifth Amendment Rights.

3. Under Amendment VI Petitioner has the right to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have Assistance of Counsel. Petitioner constitutional rights were violated in all three cases.

Petitioner subpoena two witnesses which the court refused to allow him to question and refused to allow him to subpoena a clerk of the probate court. The court further denied petitioner his right to counsel. His attorney called the court and set a date for hearing to be held. Petitioner's attorney failed to appear before the court, the court overruled petitioner's motion without counsel being present and without holding a hearing.

4. Under Amendment XIV Due process; Equal protection. No state shall deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of law.

It is clear that petitioner has been denied due process of the law and been denied equal protection of the law. He has also been denied equal access to the court.

CONCLUSION

The court should grant a writ of certiorari, vacate the appointment of attorney Fred Irtz as administrator of C.P. Gross' Estate and remand this case to the Kentucky Supreme Court with instructions for a new hearing in the probate court with a different jurisdiction.

Respectfully submitted,

Willard D Gross

Willard D. Gross, pro se
6718 Russell Cave Road
Lexington, KY 40511
(859) 299-6109

APPENDIX

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App. 1

SUPREME COURT, STATE OF KENTUCKY
CASE NO. 2000-SC-0983-D
(2000-CA-1874)

WILLARD D. GROSS MOVANT

V. FAYETTE CIRCUIT COURT
NO. 2000-XX-0024

FRED IRTZ, ADMINISTRATOR RESPONDENT

ORDER DENYING DISCRETIONARY REVIEW

The motion for review of the decision of the Court of Appeals is denied. Keller, J., not sitting.

ENTERED June 7, 2001.

Chief Justice

Commonwealth of Kentucky
Court of Appeals
NO. 2000-CA-001874-D

WILLARD D. GROSS MOVANT
SON- HEIR OF CALEB P. GROSS, DECEASED

ON MOTION FOR DISCRETIONARY REVIEW
FROM FAYETTE CIRCUIT COURT
ACTION NO. 00-XX-00024

V.

FRED IRTZ, ADMINISTRATOR RESPONDENT

ORDER DENYING DISCRETIONARY REVIEW

BEFORE: GUDGEL, Chief Judge; JOHNSON AND SCHRODER, JUDGES.

The Court has considered the motion for discretionary review and the response thereto; movant's motion to dismiss response and the response and the response thereto; and movant's motion for special leave of the Court to file motion under Rule 9.02 fraud, mistake, condition of mind. The Court, being sufficiently advised, ORDERS the motions be DENIED.

Entered: OCT 09 2000

JUDGE, COURT OF APPEALS

App.3

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: THE ESTATE OF CALEB PR. GROSS,
DECENT
CASE NO. 91-P-1247

OBJECTION

Comes Willard D. Gross, son and heir of Caleb P. Gross and files his OBJECTION to this court holding any hearing on any other issues in this case until the Motion to Terminate Fred Irtz' unlawful appointment as administrator of Caleb P. Gross' Estate has been finalized.

Further, Willard D. Gross also objects to this court's ruling denying Willard the right to subpoena Carla Million, clerk of probate court to appear before the court in the disputed matter of the fiduciary bond application.

Willard D. Gross, pro se
Son and heir of C.P. Gross
6718 Russell Cave Road
Lexington, KY 40511

CERTIFICATE OF SERVICE

I hereby certify that mailing or hand delivering a true copy of the same to the following on the 10 day of April 2000 served the foregoing instrument.

Robert Monk
111 West Short Street
Lexington, KY 40507

Thomas Burnett
156 Market Street
Lexington, KY 40507

Willard D. Gross

Commonwealth of Kentucky
Court of Justice

Case No. 91-P-1247
Court- Probate
County- Fayette

SUBPOENA

IN REF: THE ESTATE OF CALEB P. GROSS, DECEASED

Plaintiff(s) VS. Defendant(s)

1. The Commonwealth of Kentucky to : Julia K. Tackett, judge of the C of Appeal Court of Appeals, 360 Democrat Drive, Frankfort KY 40601-9229

2. You are commanded to appear before: Fayette Probate Court.

3. At Fayette County District Court, 136 N. MLK BLVD. Lexington, KY

4. On the 17th day of April 17, 2000 at 9 a.m. Eastern Time

5. To testify in behalf of the heirs of C.P. Gross.

6. Robert M. True — Willard D. Gross, pro se

By U. Tale
Signature & Title Issuing Off.
4/11/00

Name of Requesting Attorney
(606) 299-6109

App. 5

Commonwealth of Kentucky
Court of Justice

Case No. 91-P-1247
Court- Probate
County- Fayette

SUBPOENA

IN REF: THE ESTATE OF CALEB P. GROSS, DECEASED

Plaintiff(s) VS. Defendant(s)

1. The Commonwealth of Kentucky to: Fred Irtz 111 West Short Street, Lexington, KY

2. You are commanded to appear before: Fayette Probate Court.

3. Fayette County District Court 136 N. MLK Blvd.

4. On the 17th day of April 2000 at 9 a.m. Eastern Time.

5. To testify in behalf of the heirs of C.P. Gross.

6. Robert M. True
By U. Tale
Signature & Title Issuing Off.
4/11/00

Willard D. Gross, pro se
Name of Requesting Attorney
(606) 299-6109

App. 6

CASE HISTORY

6/27/00

COUNTY: FAYETTE
COURT: DISTRICT
CASE: 91-P-1247
ESTATE OF: GROSS, CALEB P.

OPENING JUDGE: HONORABLE KEVIN HORNE
CURRENT JUDGE:
CLOSING JUDGE: HONORABLE KEVIN HORNE

08/25/97 Scheduled Event 09/24/97 at 8:30 am
MOTION HOUR
HONORABLE JULIA TACKETT

*MOTION
08/25/97 Scheduled Event 10/08/97 at 8:30 am
MOTION HOUR
HONORABLE JULIA TACKETT

*MOTIONS
08/25/97 Motion filed
MOTION-OTHER
PETITIONER/ FIDUCIARY

*SEALED BY THE COURT ORDER
08/25/97 Motion filed
MOTION-OTHER
ATTORNEY

* MOTION SEALED BY COURT ORDER

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION

In Re: The Estate of Caleb Powers Gross, Decedent
Case No. 91-P-01247

ORDER

****

Upon Motion of Willard Gross for recusation of Judge Julia Tackett, and the Court having considered all relevant factors presented by the parties, and it appearing at this time that said Judge would have a conflict of interest by presiding herein, and the Court being sufficiently advised,

IT IS HEREBY ORDERED AND ADJUDGED that Judge Julia Tackett does hereby recuse herself from presiding over all matters pending in the Estate of Caleb Powers Gross, and is relieved of all further responsibility herein. It is further directed that this matter be assigned by the Clerk to Judge Kevin M. Horne, Division Two, Fayette District Court.

Dated this 5th day of May, 1998.

Julia K. Tackett, Judge

App. 8

SEQUENCE OF EVENTS LEADING TO THE RECUSATION O JUDGE JULIA TACKETT

1. In hearing held on April 9, 1997. petitioner verbally asked Judge Tackett to vacate the bench, in that her term as probate judge expired on April 4, 1997. Judge Tackett also had a conflict of interest in this case. Judge Tacket refused to vacate the bench.

2. On May 2 1997, Judge Tackett appointed Fred Irtz as Successor Exectutor of C.P. Gross' Estate without the will annexed and in violation of the following:

KRS. 395.120 Oath of Representatives. Fred Irtz did not take oath.

KRS. 395.130 Bond. Fred Irtz did not file a bond.

KRS. 395.015 Application for appointment of personal representatives. Fred Irtz did not file an application.

KRS. 395.016 Notice of hearing application. No hearing was held.

KRS. 395.040 Administrative person entitled to be appointed.

3. On June 24, 1997, petitioner filed a complaint against Judge Tackett with the Judicial Retirement and Removal Commission.

4. On July 7, 1997 petitioner and all participating heirs filed notice with Probate Court for the termination of the appointment of Fred Irtz as successor executor. Judge Tackett refused to act.

5. On July 22, 1997, petitioner and all participating heirs filed motion to terminate the appointment of Fred Irtz. Judge Tackett refused to hear motion.

6. On August 25, 1997, petitioner filed motion to disqualify Judge Julia Tackett. Judge Tackett sealed this motion by court order on August 25.1997.

7. On August 25, 1997, petitioner filed amended motion for the termination of Fred Irtz as successor executor. Judge Tackett sealed this motion by court order on August 25, 1997.

8. Judge Tackett recused herself from this case on May 5th ,1998 stating a conflict with petitioner this being 13 months after Judge Tackett was asked to vacate the bench on April 9, 1997.

9. Judge Tackett in her order recuseing herself appointed Judge Kevin Horne to replace her in this case. There are six district judges and under the rules a case is assigned by draw.

10. Judge Kevin Horne on or about June 6, 1998 stated that Judge Tackett asked him not to hear any motions that were before the court in this case and he agreed. He reaffirmed this position on April 3, 2000. This being approximately 3 years after Judge Tackett was asked to vacate bench in this case.

11. On April 3, 2000, petitioner's attorney Joe Clark who by phone called Judge Horne and together set the date of April 3, 2000 for hearing this case, failed to appear before the court. Judge Horne overruled petitioner's motion to terminate the appointment of Fred Irtz without his attorney being present.

Petitioner objected and gave verbal notice of appeal. Judge Horne accepted and stated this as far as we can go and started to leave the court. He then stated "What am I doing" and then turned the hearing into a "Get acquainted hearing." Judge Horne refused to issue an order overruling petitioners motion.

Supreme Court, U.S.
FILED

011007 AUG 13 2002

OFFICE OF THE CLERK

No._____

In The
Supreme Court of the United States

Willard D. Gross
Petitioner,

V.

Fred Irtz, Administrator
Respondent,

PETITION FOR A WRIT OF CERTIORARI

SUPPLEMENTAL APPENDIX

Willard D. Gross pro se
6718 Russell Cave Road
Lexington, Kentucky 40511
(859) 299-6109

25pp

SUPPLEMENTAL APPENDIX

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ORDER AFTER IT HAD BEEN ALTERED
WITH WHITE-OUT TO READ SUCCESSOR
ADMR. AND SUCC. ADMR. W/W/A WITHOUT AUTHORITY
- THIS WAS DONE
APPROXIMATELY 10 AFTER ORDER
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STATEMENT OF FACTS

In that the District Probate Court Lexington, Kentucky refused to honor two (2) proper and timely filed notice of appeals and Probate Judge Kevin Horne stating that no court would overturn his Order and allow this case to continue while it was on appeal, this court should deem this statement of facts as properly filed.

On April 19, 2000 Probate Judge Kevin Horne issued an incomplete ORDER. This Court Order has 7 issues to be resolved. This Order did not state that it was a final and appealable Order. Under the Rules of Probate Court Petitioner had 30 days in which to appeal a final an appealable Order.

Attorney Fred Irtz, Administrator of Caleb P. Gross' estate used this incomplete Order and picked up $142,933.00 from the Central Bank of Lexington, Kentucky and placed this money in a checking account in the estate of C.P. Gross with Central Bank.

Nine days after this incomplete Order was issued on April 28, 2000, Fred Irtz as Administrator paid himself $32,712..25. Check No. 675549. He also paid his attorney Robert Monk $23,718.75. Check No.675550.

At a hearing held on May 3, 2000, Petitioner questioned Judge Horne about the incomplete Order, in that it was not a final an appealable Order. Judge Horne stated "I meant it to be" Judge Horne again, for at least the fourth time, started threatening Petitioner for practicing law without a license and filing frivolous motions.

Judge Horne had Petitioner placed in the Fayette County Detention Center for 30 days for contempt of court. Petitioner was held for the full 30 days.

On May 3, 2000 Jane Gross filed a Notice of Appeal in this case with the probate clerk. With this case on appeal as of May 3, 2000 and petitioner in jail, where he could not get in the way, Judge Horne and Administrator Fred Irtz had no problem in using Judge Horne's incomplete order, on May 8, 2000 to pickup $433,809.45 cash money from the Master Commissioner.

This being 5 days after Jane Gross filed her Notice of Appeal and only 17 days after Judge Horne issued his incomplete Order. There were still 13 days to file a Notice of Appeal.

Administrator Fred Irtz as of May 8, 2000 had control of $576, 742.56 in cash money. Petitioner filed his

Notice of Appeal from jail on May 17, 2000. Fred Irtz knowingly picked up $40,000.00 from the Master Commissioner that did not belong to the estate of C.P. Gross, this money belonged to C.P. Gross' children.

Fred Irtz claimed this $40,000.00 on August 8, 2000 for additional administration expenses in his distribution calculation. Fred Irtz restated his charge of $40,000.00 for additional administration expenses in his distribution calculation dated January 23, 2001.

Fred Irtz claimed $50,000 for Executer Commission under Schedule J Kentucky Inheritance and Estate Tax Return of Caleb P. Gross. Filed and sworn to by Fred Irtz II, on May 12, 2000. The following is a list of checks and amounts that he has paid himself starting with his

Executors commission of			$50,000.00.
Check No.	675549	4/27/00	$32,712.25
Check No.	675561	6/01/00	$ 7,112.55
Check No.	675564	6/02/00	$ 7,150.00
Check No.	675568	7/03/00	$ 1,312.00
Check No.	675572	8/03/00	$ 4,352.65
Distribution Calculation on 8/08/00			$40,000.00

Additional Administration Expenses

Check No.	675581	9/12/00	$ 1,808.60
Check No.	675582	10/09/00	$ 100.00
Check No.	675584	11/03/00	$ 600.00
Check No.	675585	12/01/00	$ 3,205.40
Check No.	675587	1/03/01	$ 1,107.50
Check No.	675588	02/02/01	$ 8,900.00
Check No.	668938	no date	$ 3,510.00
Check No.	668940	4/03/01	$ 920.00
Check No.	668943	5/02/01	$ 550.00
Check No.	668945	6/04/01	$ 2,300.00
Check No.	717945	7/02/01	$ 6,450.00
Check No.	717958	8/03/01	$ 6,450.00
Check No.	669972	10/07/01	$ 850.00

Administrator Attorney Fred Irtz hired himself an attorney form his office by the name of Robert Monk. Fred Irtz has paid Robert Monk in the excess of $32,000.00. The above amounts charged for dividing up $576,742.56 in cash money.

Fred Irtz claims that he is a $200.00 an hour accountant and has all the work he can do. This case would imply that all of his clients wind up broke. He further claims that he works for the IRS and causes people to fear

him. This came out in Probate Court.

From April to September 2000, 5 months Fred Irtz has charged administration fee at the rate of $16,000.00 per month. Judge Horne ruled that the amount charged by Fred Irtz was reasonable, then overruled petitioner's motion for periodic accounting which was long overdue. Petitioner had to get a court Order from Circuit Court before Fred Irtz would hand over his bank records.

Fred Irtz has only wrote 44 checks. In this he has uses 4 sequence of numbers (675549), (668945), (717942), (699973). This has a peculiar order and needs an explanation.

This case has been on appeal since May 3, 2000. Judge Horne and Fred Irtz has kept this case active every since that day.

Petitioner on April 10, 2000 filed his objections to the court holding any hearings on any other issue in this case until the Motion to terminate Fred Irtz appointment as Administrator of C.P. Gross' estate has been finalized. (See App.3 in petition for Writ of Certiorari)

Respectively submitted,

Willard D. Gross

Willard D. Gross, pro se

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION

IN RE: The Estate of Caleb P. Gross, Deceased

No. 91-P-1247

FILED and ENTERED APRIL 19, 2000

ORDER

The matter of removing the Administrator of the Estate having come on for hearing on the ORDER of this Court, and this Court having heard arguments of Mr. Willard Gross, as well as counsel for the Administrator of this Estate, and having reviewed the original appointment of this Administrator dated May 2, 1997, as well as the opinion of the Fayette Circuit Court affirming that order (Fayette Circuit Court file 97-XX-39); the nunc pro tunc order correcting a typographical error and affirming the appointment of this Administrator, issued April 17, 1998, as well as the opinion of the Fayette Circuit Court affirming that order (Fayette Circuit Court file 98-XX-46) and the order of the Kentucky Court of Appeals, dated November 12, 1998, denying Mr. Gross' motion for discretionary review of that Fayette Circuit Court opinion (Kentucky

Court of Appeals file 1999-CA-002195-D), and being otherwise sufficiently advised.

IT IS HEREBY ORDERED, that the appointment of Frederick G. Irtz, II as Successor Administrator W/W/A, is hereby REAFFIRMED.

IT IS FURTHER ORDERED, that bond shall be set upon Frederick G. Irtz, II in the amount of $580,000.00 with surety.

FURTHER, this Court having heard argument of Mr. Willard Gross and other various claimants, as well as Counsel for the Administrator of this Estate as to the respective claims which have been made against the estate, and this Court being otherwise sufficiently advised.

IT IS HEREBY ORDERED, that the following claims, in the following amounts shall be allowed as due claims and expenses of this Estate and the Successor Administrator W/W/A is hereby directed to obtain all Estate funds from the Master Commissioner, as well as Central Bank, and to make payment on any allowed unpaid claims according to the ORDER.

Robert Brown, claim of $3,529.10 is allow in full.

Caretenders, claim of $1,449.18 is allowed in full.

William Davis, claim of $1.492.87 is allowed in full.

Landrum & Shouse, claim of $2,605.99 is allowed in full.

Fowler, Measle, & Bell, claim of $2,521.17 is allowed in full.

Jack Stephenson, who has been paid $11,000.00 is allowed in full.

Fidelity & Deposit Co., claim of $528.00 is allowed in full.

Brown Todd & Heyburn, claim of $27,070.93 is allowed in full.

Herren & Adams, total claim of $16, 816.00 (of which $5,000.00 has already been paid) is allowed in full.

Frederick G.Irtz, II, as Successor Administrator W/W/A claim of $32,712.25 is allowed in full.

Robert C. Monk, claim of $23,718.25 is allowed in full.

Master Commissioner Clyde L. Stapleton, claim of $6,407.77 (and in addition, any increase which may be owed due to his fee being calculated on a daily basis) is allowed in full.

The following claims remain pending before this Court:

Eugene Gross, claim for his expenses $12, 750.00 (which as been paid).

Eugene Gross, claim for Executor's Fees.

Constance Gross, claim for $87.00 in Estate Expenses.

Constance Gross, claim for $12,000.00 for Loans to the Estate.

Constance Gross, claim of $8,250.00 for automobile use.

Constance Gross, claim of $22,500.00 for services rendered to the Estate.

Bank of Harlan, claim of $17,770.42.

_____

KEVIN HORNE
JUDGE, FAYETTE DISTRICT COURT

S. App. 10

FAYETTE CIRCUIT COURT
SIXTH DIVISION
APPELLATE BRANCH

IN RE: THE ESTATE OF CALEB POWERS GROSS, DECEDENT

FILED and ENTERED JULY 11, 2000

OPINION AFFIRMING

****

This matter is before the Court on appeal from District Court. This Court has reviewed the record and the memoranda submitted by Jane Gross and Willard D. Gross (hereinafter "Appellants"). The Appellants request the Court to reverse the District Court's Order of April 19, 2000, to the extent that it awards attorney fees; to reverse the District Court's reaffirmation of Frederick G. Irtz II, as Administrator W/W/A; and, to order that the District Court appoint Appellant Jane Gross as administrator of the estate. Other issues discussed in the Appellants' Statements of Appeal are not relevant to the relief they have requested.

Appellants' request to have Jane Gross appointed as Administrator is DENIED. KRS395.040 specifies that relatives of the deceased who wish to apply as administrator must so apply within (60) days of the death of the deceased. By failing to apply for appointment as administrator is a

timely manner, the relatives have waived their rights. Caleb Gross died June 5, 1991. Jane Gross raises her request to be appointed Administrator for the first time on May 19, 2000. Jane Gross did not apply to be appointed Administrator in a timely manner, and therefore, her request is DENIED.

This Court has previously addressed the Appellants' request that Frederick G. Irtz, II's appointment as Administrator W/W/A be set aside. The Court believes that the District Court did not abuse its discretion in the appointment of Frederick G. Irtz, II and therefore AFFIRMS the District Court's reaffirmation of his appointment. The Court AFFIRMS the District Court's Order of bond set upon Frederick G. Irtz, II in the amount of $580,000.00 with surety. The Court finds that this amount is sufficient to protect the estate.

Finally, the Court AFFIRMS the District Court's Order to pay the claims against the estate, including attorney fees. Because only the attorney fees are disputed on appeal, the remaining claims will not be addressed. The Court finds that the fees charged by the attorneys of which the appellants complain, $200 per hour, $125 per hour, and

$35 per hour (paralegal) are within the range of fees normally charged for similar work in the community, and therefore are not exorbitant. The District Court did not abuse its discretion in ordering the claims paid, and the order is AFFIRMED.

The Order of the District Court entered April 19, 2000, is AFFIRMED.

LEWIS G. PAISLEY, JUDGE
FAYETTE CIRCUIT COURT

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED APRIL 17, 1998

ORDER OF APPOINTMENT NUNC PRO TUNC

This matter having come on for hearing on April 9, 1997 for the Court to appoint a Successor Executor in the above styled matter, and the Court having taken testimony and upon consideration deems that an independent third party should be named in interest of all of the beneficiaries and having further determined that the proper designation for the Successor Personal Representative appointed in the Court's original Order would be that of "Administrator W/W/A", and the Court being sufficiently advised.

IT IS HEREBY ORDERED and the Court hereby appoints the Honorable Fred Irtz, as Administrator W/W/A. This is a final and appealable Order and shall take affect retroactively to May 2, 1997.

Dated this 17th day of Aril, 1998.

JULIA D. TACKETT
JUDGE, FAYETTE DISTRICT COURT

FAYETTE CIRCUIT COURT
SIXTH DIVISION
APPELLATE BRANCH
IN RE: THE ESTATE OF CALEB POWERS GROSS, DECEDENT
FILED and ENTERED SEPTEMBER 9, 1999

OPINION AFFIRMING

****

This matter is before the Court on appeal from District Court. This Court has reviewed the record and the memoranda submitted by the Parties.

The Appellant, their heirs of Caleb P. Gross, are appealing the District Court's Order of Appointment Nunc Pro Tunc and are asking for a hearing on the matter. The Appellant alleges that the District Court's original Order appointing Fred Irtz as Successor Executor of Caleb P. Gross' estate was forged. According to the Appellant, "Successor Executor" was altered with white out to read "SUCC Admir. W/W/A".

According to the Appellee, a draft order appointing Frederic G. Irtz, II as "Successor Executor" was signed and mistakenly mailed to the Parties. In the meantime, someone in the Clerk's office brought it to the attention of the Court

that Mr. Irtz would actually be a Successor Administrator With Will Attached, because Mr. Irtz was not named in the will. The Order was then corrected to read as such. The Appellant then questioned the change, and the Court issued an Order Nunc Pro Tunc to clarify the misunderstanding.

According to CR 60.01, clerical mistakes in orders may be corrected be the Court at any time of its own initiative. This is clearly what happened. The District Court realized the error in the wording of the draft order and corrected the error. This is further evidenced by the Court's Nunc Pro Tunc Order. Appellant's claims are without merit. The Judgement of the District Court is AFFIRMED.

_____

LEWIS G. PAISLEY, JUDGE
FAYETTE CIRCUIT COURT

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 2, 1997

ORDER

****

The Matter being on for a hearing April 9, 1997 for the court to appoint Successor Executor in above styled matter and the court having taken testimony;

IT IS HEREBY ORDERED that an independent third party be named in the interest of all of the beneficiaries. The court hereby appoints the Honorable Fred Irtz, Successor Executor. This is a final and appeal order.

This the 2 day May, 1997.

_____
JULIA TACKETT
JUDGE, FAYETTE DISTRICT COURT

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 2, 1997

ORDER

****

The Matter being on for a hearing April 9, 1997 for the court to appoint Successor Admr. in above styled matter and the court having taken testimony;

IT IS HEREBY ORDERED that an independent third party be named in the interest of all of the beneficiaries. The court hereby appoints the Honorable Fred Irtz, Succ. Admr. W/W/A. This is a final and appeal order.

This the 2 day May, 1997.

_____
JULIA TACKETT
JUDGE, FAYETTE DISTRICT COURT

S. App. 18

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 3, 2000

NOTICE OF APPEAL

****

Comes the petitioners Jane Gross, granddaughter of C.P. Gross and Willard D. Gross II, grandson of C.P. Gross and files their joint notice of appeal, pro se, from ORDER issued by Judge Kevin Horne on April 19, 2000. the 3rd day of May 2000.

_____
Jane Gross, pro se

_____
Willard Gross II, pro se

S. App. 19

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION
IN RE: The Estate of Caleb P. Gross, Deceased
No. 91-P-1247
FILED and ENTERED MAY 17, 2000

NOTICE OF APPEAL

****

Comes the petitioner Willard D. Gross, son and heir of C.P. Gross files his notice of appeal, pro se, from ORDER issued by Judge Kevin Horne on April 19, 2000. This the 17th day of May 2000.

Willard D. Gross, pro se
6718 Russell Cave Road
Lexington, KY 40511

KENTUCKY RESIDENT
INHERITANCE AND ESTATE
TAX RETURN

597126 / 46 / 2000
Account No. Tax Year

Frederick G. Irtz II May 12, 2000

SCHEDULE J

EXECUTOR COMMISSIONS
Frederick G. Irtz, II.....$50,000.00

Prepared and signed by Frederick G. Irtz, II
Administrator of C.P. Gross' estate.

Frederick G. Irtz, II
P.O. Box 22777
Lexington, KY 40522
(859) 233-4643
May 12, 2000

S. App.21

COMMONWEALTH OF KENTUCKY
FAYETTE DISTRICT COURT
PROBATE DIVISION

IN RE: The Estate of Caleb P. Gross, Deceased

No. 91-P-1247

FILED and ENTERED SEPTEMBER 26, 2001

MOTION FOR PERIODIC ACCOUNTING

Comes Willard D. Gross, pro se son and heir of Caleb P. Gross and moves the court under KRS 395.610 to issue an order for the administrator to file a full and complete accounting of C.P. Gross' estate with the court and service to Willard D. Gross within 15 days.

Submitted by,

_____

Willard D. Gross, pro se
6718 Russell Cave Road
Lexington, KY 40511

Estate of Caleb P. Gross

DISTRIBUTION CALCULATION

ASSETS FOR DISTRIBUTION

LESS: CLAIMS, DEBTS AND EXPENSES

Additional Admin. Expenses	$40,000.00

Prepared on August 8, 2000